Registered No. M. 1175

The Mysore Gazette

PUBLISHED BY AUTHORITY 628

Vol. 87] BANGALORE, THURSDAY, JULY 3, 1952. [No. 27

PART IV

Section—1-A.

CENTRAL BILLS AND REPORTS OF SELECT COMMITTEES THEREON.

NOTIFICATION.

No. L. D. 604—Legis. 8-52-1, dated Bangalore, 20th June 1952.

Ordered that the following Bills which were introduced in the House of People on the 15th May 1952, namely, (1) the Essential Goods (Declaration and Regulation of Tax on Sale or Purchase) Bill, 1952, (2) the Saurashtra (Abolition of Local Sea Customs Duties and Imposition of) Port Development Levy Repealing Bill, 1952, (3) the Code of Civil Procedure (Amendment) Bill, 1952, (4) the Maintenance Orders Enforcement (Amendment) Bill, 1952, and (5) the Notaries Bill, 1952, published in the *Gazette of India*, Part II, Section 2, dated the 24th May 1952, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,
Legal Remembrancer and Secretary to Government, Law Department.

HOUSE OF THE PEOPLE.

The following Bills were introduced in the House of the People on 16th May 1952 :—

BILL No. 29 OF 1952.

A Bill to declare, in pursuance of clause (3) of article 286 of the Constitution, certain goods to be essential for the life of the community.

BE it enacted by Parliament as follows :—

1. **Short title.**—This Act may be called the Essential Goods (Declaration and Regulation of Tax on Sale or Purchase) Act, 1952.

2. Declaration of certain goods to be essential for the life of the community.—The goods specified in the Schedule are hereby declared to be essential for the life of the community.

3. Regulation of tax on sale or purchase of essential goods.—No law made after the commencement of this Act by the legislature of a State imposing, or authorising the imposition of, a tax on the sale or purchase of any goods declared by this Act to be essential for the life of the community shall have effect unless it has been reserved for the consideration of the President and has received his assent.

THE SCHEDULE

(*See* section 2)

Goods declared essential for the life of the community

1. Cereals and pulses in all forms, including bread and flour, including atta, maida, suji and bran (except when any such article is sold in sealed containers).

2. Green or dried vegetables and flower seeds, bulbs and plants and fresh and dried fruits, other than medical preparations (except when any such article is sold in sealed containers).

3. Fresh milk, whole or separate, and milk products.

4. Salt.

5. Coarse and medium handloom and mill-made cotton cloth and handloom woollen cloth.

6. Fertilizers and agricultural machinery and implements.

7. Raw cotton, including ginned and un-ginned cotton or kapas or cotton thread, cotton seed, raw jute and sugar-cane.

8. Coal including coke and other derivatives, petroleum and petroleum products including motor spirit and electrical energy, except energy intended for domestic use.

9. Iron and steel.

STATEMENT OF OBJECTS AND REASONS.

Article 286(3) of the Constitution provides that—

> "No law made by the Legislature of a State imposing, or authorising the imposition of, a tax on the sale or purchase of any such goods as have been declared by Parliament by law to be essential for the life of the community shall have effect unless it has been reserved for the consideration of the President and has received his assent."

A list of goods essential for the life of the community for the purpose of the above-mentioned provisions has accordingly been drawn up and the Bill provides that the imposition, after the enactment of the Bill, of a sales or purchase tax on these goods should be reserved for the consideration of the President. The Bill, if enacted, may help to achieve a certain measure of uniformity in the taxes, and also prevent essential goods, being unduly taxed,

The Bill was introduced in the Provisional Parliament on the 7th June, 1952, but could not be passed owing to want of time.

C. D. DESHMUKH.

NEW DELHI;

The 13th May, 1952.

BILL No. 30 OF 1952

A Bill to repeal the Saurashtra (Abolition of Local Sea Customs Duties and Imposition of) Port Development Levy Ordinance, 1949.

BE it enacted by Parliament as follows :—

1. Short title.—This Act may be called the Saurashtra (Abolition of Local Sea Customs Duties and Imposition of) Port Development Levy Repealing Act, 1952.

2. Repeal of Saurashtra Ordinance LXXXIII of 1949.—The Saurashtra (Abolition of Local Sea Customs Duties and Imposition of) Port Development Levy Ordinance, 1949, is hereby repealed :

Provided that section 6 of the General Clauses Act, 1897 (X of 1897), shall apply in relation to such repeal as if the said Ordinance had been an enactment.

3. Repeal of Ordinance IV of 1952.—The Saurashtra (Abolition of Local Sea Customs Duties and Imposition of) Port Development Levy Repealing Ordinance, 1952 (IV of 1952), is hereby repealed.

STATEMENT OF OBJECTS AND REASONS

The Government of Saurashtra, with the concurrence of the Government of India, promulgated on the 25th September 1949, an Ordinance called the Saurashtra (Abolition of Local Sea Customs Duties and Imposition of) Port Development Levy Ordinance, 1949. The object of the Ordinance was to abolish all local sea customs duties which the State used to levy on trade not only with the rest of India but also on trade between the covenanting States *inter se*. It also provided for the imposition of a levy called the port development levy at the rate of 3/4th per cent *ad valorem* on all goods exported or imported from specified ports in Saurashtra to or from ports in the rest of India. It was the intention of the Saurashtra Government to abolish this levy as soon as it was found possible to rationalise the port charges to cover necessary expenditure incurred in connection with the ports. The Saurashtra Government had intimated that they proposed to abolish the port development levy with effect from the 1st April 1952. To achieve this object, the Saurashtra (Abolition of Local Sea Customs Duties and Imposition of) Port Development Levy Repealing Ordinance, 1952 (IV of 1952), was promulgated on the 2nd April 1952. The present Bill merely seeks to replace that Ordinance by an Act of Parliament.

K. N. KATJU.

NEW DELHI;

The 14th May 1952.

 831

BILL NO. 31 OF 1952.

A Bill further to amend the Code of Civil Procedure, 1908.

BE it enacted by Parliament as follows:—

1. **Short title.**—This Act may be called the Code of Civil Procedure (Amendment) Act, 1952.

2. **Amendment of section 44A, Act V of 1908.**—In *Explanation 2 to* section 44A of the Code of Civil Procedure, 1908, for the words "any country, or territory, situated in any part of His Majesty's Dominions" the words "any country or territory outside India, other than the United Kingdom," shall be substituted.

STATEMENT OF OBJECTS AND REASONS.

Under section 44A of the Code of Civil Procedure, 1908, decrees of the superior courts of the United Kingdom or of any reciprocating territory are executable in India; but by virtue of *Explanation* 2 to that section, the expression "reciprocating territory" is restricted to mean any country or territory situated in any part of His Majesty's dominions, which the Central Government may notify to be a reciprocating territory. It is, therefore, not possible to extend this facility to any foreign country outside the Commonwealth even if that country is prepared to make arrangements for the execution within its territories of decrees passed by courts in India. It is desirable that the Central Government should have power to declare by notification any foreign country, whether within or outside the Commonwealth, as a reciprocating territory for purposes of execution of decrees. Hence the present Bill.

C. C. BISWAS.

NEW DELHI;

The 14th May 1952.

BILL NO. 32 OF 1952.

A Bill further to amend the Maintenance Orders Enforcement Act, 1921.

BE it enacted by Parliament as follows:—

1. **Short title.**—This Act may be called the Maintenance Orders Enforcement (Amendment) Act, 1952.

2. **Amendment of long title and preamble, Act XVIII of 1921.**—In the long title of, and the preamble to, the Maintenance Orders Enforcement Act, 1921 (hereinafter referred to as the principal Act), for the words "His Majesty's Dominions and Protectorates," the words "reciprocating territories," shall be substituted.

3. **Amendment of section 2, Act XVIII of 1921.**—In section 2 of the principal Act,—

(*a*) in the definition of 'dependants' for the words 'the part of His Majesty's Dominions' the words 'the reciprocating territory' shall the substituted;

(*b*) for the definition of 'reciprocating territory' the following definition shall be substituted, namely:—

"'reciprocating territory' means any country or territory outside India in respect of which this Act for the time being applies by virtue of a declaration under section 3."

332

4. Substitution of new section for section 3, Act XVIII of 1921.—For section 3 of the principal Act, the following section shall be substituted, namely :—

"3. *Declaration of reciprocal arrangements.*—If the Central Government is satisfied that legal provision exists in any country or territory outside India for the enforcement within that country or territory of maintenance orders made by courts in India, the Central Government may, by notification in the Official Gazette, declare that this Act applies in respect of that country or territory and thereupon it shall apply accordingly."

STATEMENT OF OBJECTS AND REASONS.

The Maintenance Orders Enforcement Act, 1921, facilitates the enforcement in India of maintenance orders made in "His Majesty's Dominions and Protectorates" and *vice versa*, but it has no application to maintenance orders made in countries outside the Commonwealth. It is desirable that where a foreign country is prepared to make arrangements for the enforcement within its territory of maintenance orders passed by courts in India, there should be legal provision enabling the Government of India to extend the facility to that country on a reciprocal basis. The object of the present Bill is to make necessary amendments in the Maintenance Orders Enforcement Act, 1921, so as to facilitate the enforcement in India on a reciprocal basis of maintenance decrees or orders passed by courts in foreign countries.

C. C. BISWAS.

NEW DELHI,

The 14th May, 1952.

BILL NO. 33 OF 1952.

A Bill to regulate the profession of notaries.

BE it enacted by Parliament as follows:—

1. Short title, extent and commencement.—(1) This Act may be called the Notaries Act, 1952.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. Definitions.—In this Act, unless the context otherwise requires,—

(*a*) "India" means the territories to which this Act extends;

(*b*) "instrument" includes every document by which any right or liability is, or purports to be, created, transferred, limited, extended, extinguished or recorded;

(*c*) "legal practitioner" means an advocate, vakil or attorney of the Supreme Court or of any High Court, or a pleader practising in any subordinate civil court;

(*d*) "notary" means a person appointed as such under this Act;

Provided that for a period of one year from the commencement of this Act it shall include also a person who, before such commencement, was appointed a notary public either under the Negotiable Instruments Act, 1881 (XXVI of 1881), or by

the Master of Faculties in England, and is, immediately before such commencement, in practice in any part of India;

(*e*) "prescribed" means prescribed by rules made under this Act;

(*f*) "Register" means a Register of Notaries maintained by the Government under Section 4;

(*g*) "State Government", in relation to a Part C State, means the Lieutenant Governor, or, as the case may be, the Chief Commissioner.

3. Power to appoint notaries.—The Central Government, for the whole or any part of India, and any State Government, for the whole or any part of the State, may, on such conditions, if any, as it thinks fit, appoint as notaries any legal practitioners or other persons who, in its opinion, are duly qualified to discharge the functions of notaries under this Act.

4. Registers.—(1) The Central Government and every State Government shall maintain, in such form as may be prescribed, a Register of the notaries appointed by that Government and entitled to practise as such under this Act.

(2) Every such Register shall include the following particulars about every notary whose name is entered therein, namely:—

(*a*) his full name, date of birth, residential and professional address.

(*b*) the date on which his name is entered in the Register;

(*c*) his qualifications; and

(*d*) any other particulars which may be prescribed.

5. Entry of names in the Register and issue or renewal of certificates of practice.—(1) Every notary who intends to practise as such shall, on application to the Government appointing him and payment of the prescribed fee, if any, be entitled—

(*a*) to have his name entered in the Register maintained by that Government under Section 4, and

(*b*) to a certificate authorising him to practise for a period of three years from the date on which the certificate is issued to him.

(2) Every such notary who wishes to continue to practise after the expiry of the period for which his certificate of practice has been issued under this section shall, on application made to the Government appointing him and payment of the prescribed fee, if any, be entitled to have his certificate of practice renewed for three years at a time.

6. Annual publication of lists of notaries.—The Central Government and every State Government shall, during the month of January each year, publish in the Official Gazette a list of notaries appointed by that Government and in practice at the beginning of that year together with such details pertaining to them as may be prescribed.

7. Seal of notaries.—Every notary shall have and use, as occasion may arise, a seal of such form and design as may be prescribed.

8. Functions of notaries.—(2) A notary may do all or any of the following acts by virtue of his office, namely:—

(*a*) verify, authenticate, certify or attest the execution of any instrument;

(*b*) present any promissory note, hundi or bill of exchange for acceptance or payment;

(*c*) note or protest the dishonour by non-acceptance or non-payment of any promissory note, hundi or bill of exchange or protest for better security or prepare acts of honour under the Negotiable Instruments Act, 1881 (XXVI of 1881), or serve notice of such note or protest;

634

(*d*) note and draw up ships protest, boat's protest or protest relating to demurrage and other commercial matters;

(*e*) administer oath to, or take affidavit from, any person;

(*f*) prepare bottomry and respondentia bonds, charter parties and other mercantile documents;

(*g*) prepare, attest or authenticate any instrument intended to take effect in any country or place outside India in such form and language as may conform to the law of the place where such deed is intended to operate;

(*h*) translate, and verify the translation of, any document from one language into another;

(*i*) any other act which may be prescribed:

Provided that no notary shall do any act which he is not, under the terms of his appointment, authorised to do.

(*2*) No act specified in sub-section (*1*) shall be deemed to be a notarial act except when it is done by a notary under his signature and official seal.

9. Bar of practice without certificate.—(*1*) Subject to the provisions of this section, no person shall practise as a notary or do any notarial act under the official seal of a notary unless he holds a certificate of practice in force issued to him under section 5:

Provided that the presentation of any promissory note, hundi or bill of exchange for acceptance or payment by the clerk of a notary shall not be deemed to be a notarial act within the meaning of this sub-section.

(*2*) Nothing contained in sub-section (1) shall, until the expiry of one year from the commencement of this Act, apply to any such person as is referred to in the proviso to clause (*d*) of section 2.

10. Removal of names from Register.—The Government appointing any notary may by order, remove from the Register maintained by it under section 4 the name of the notary if he—

(*a*) makes a request to that effect; or

(*b*) has not paid any prescribed fee required to be paid by him; or

(*c*) is an undischarged insolvent; or

(*d*) has been found, upon inquiry in the prescribed manner, to be guilty of such professional or other misconduct as in the opinion of the Government, renders him unfit to practise as a notary.

11. Construction of references to notaries public in other laws.—Any reference to a notary public in any other law shall be construed as a reference to a notary entitled to practise under this Act.

12. Penalty for falsely representing to be a notary, etc.—Any person who—

(*a*) falsely represents that he is a notary without being appointed as such, or

(*b*) practises as a notary or does any notarial act in contravention of section 9,

shall be punishable with imprisonment for a term which may extend to three months, or with fine, or with both.

13. Reciprocal arrangements for recognition of notarial acts done by foreign notaries.—If the Central Government is satisfied that by the law or practice of any country or place outside India, the notarial acts done by notaries within India are recognised for all or any limited purposes in that country or place, the Central Government may, by notification in the Official Gazette, declare that the notarial acts lawfully done by notaries within such country or place shall be recognised

635

within India for all purposes or, as the case may be, for such limited purposes as may be specified in the notification.

14. Power to make rules.—(*1*) The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(*a*) the form and manner in which applications for appointment as a notary may be made and the disposal of such applications;

(*b*) the certificates, testimonials or proofs as to character, integrity, ability and competence which any person applying for appointment as a notary may be required to furnish ;

(*c*) the fees payable for appointment as a notary and for the issue of and renewal of certificate of a practice, and exemption from such fees in specified classes of cases ;

(*d*) the fees payable to a notary for doing any notarial act ;

(*e*) the form of Registers and the particulars to be entered therein ;

(*f*) the form and design of the seal of a notary ;

(*g*) the manner in which inquiries into allegations of professional or other misconduct of notaries may be made ;

(*h*) the acts which a notary may do in addition to those specified in section 8 and the manner in which a notary may perform his functions ;

(*i*) any other matter which has to be, or may be, prescribed.

15. Repeal.—Chapter XVII of the Negotiable Instruments Act, 1881 (XXVI of 1881), is hereby repealed.

STATEMENT OF OBJECTS AND REASONS.

Under section 138 of the Negotiable Instruments Act, 1881, the Government of India have the power to appoint notaries public, but only for the limited purpose of performing functions under that Act. By virtue of an ancient English Statute, the Master of Faculties in England used to appoint notaries public in India for performing all recognised notarial functions but it is no longer appropriate that persons in this country who wish to function as notaries shou'd derive their authority from an institution in the United Kingdom.

The object of the present Bill is to empower the Central and State Governments to appoint notaries, not only for the limited purposes of the Negotiable Instruments Act, but generally for all recognised notarial purposes, and to regulate the profession of such notaries.

A Bill on the subject was accordingly introduced in the provisional Parliament on the 19th April 1951, and referred to a Select Committee on the 18th August, 1951. The report of the Select Committee was presented on the 4th October, 1951, but the Bill could not be proceeded within the last Session of Parliament for want of time and, therefore, lapsed. Apart from one or two minor drafting changes, the present Bill follows closely the Notaries Bill, 1951, as amended by the Select Committee.

C. C. BISWAS.

NEW DELHI,
The 15th May, 1952.

M. N. KAUL,
Secretary.

Printed by the Director of Printing, Stationery and Publications at the Government Press, Bangalore.